

COUNCIL POLICY

SUBJECT: ACQUISITION OF REAL PROPERTY INTERESTS
POLICY NO.: 700-32
EFFECTIVE DATE: January 16, 1975

BACKGROUND:

The authority to conduct the City's real estate business is contained in the City Charter which provides that the Municipal Corporation ".....may own and acquire property within or without its boundaries for either governmental or proprietary, or any municipal purpose, either by succession, annexation, purchase, devise, lease, gift, or condemnation.....".

The City Council budgets and orders public improvement projects requiring the acquisition of several hundred ownership interests each year. The acceptance of these projects by the community is dependent upon a fair minded and professional approach by the City's Property Agents who acquire these private property interests. The power of eminent domain requires a fair and just administrative process. The rapid evolution of Federal and State constitutional provisions, statutes and regulations pertaining to real estate acquisition by public agencies dictates that a policy be established setting out well defined acquisition procedures within the framework of just compensation and relocation assistance.

PURPOSE:

In order to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the public programs, and to promote public confidence in public land acquisition programs, the City shall set forth a just and fair acquisition and relocation assistance policy. The City shall, to the greatest extent practicable, be guided by the provisions of Government Code Sec. 7260 (Relocation Assistance) through Sec. 7267.

POLICY:

The City's real property acquisition program will be prosecuted in concert with the applicable Federal and State constitutional provisions and statutes and specifically within the following policy parameters:

1. All property owners will be dealt with fairly and equitably in the acquisition of lands or interests therein required by the City.
2. Settlements will be based on the estimate of fair market value as supported by current appraisal practices.
3. The City shall pay for expenses which the owner(s) must incur for title and escrow fees incidental to conveying real property to the City. (Government Code Sec. 7265.4)
4. The City shall make every reasonable effort to acquire expeditiously by negotiations the required property interests.

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5. Condemnation will be utilized where negotiations have reached an impasse or there is a requirement to meet time restraints imposed by funding sources or construction schedules.
6. The Relocation Assistance Program will be fairly administered to insure that all owners receive any and all benefits to which they are legally entitled.

GUIDELINES:

The following guidelines shall be utilized by the City to insure fair and equitable treatment of all property owners affected by City acquisitions as set out in Government Code Sec. 7267.

1. The real property interests to be acquired shall be appraised and the fair market value established before the initiation of negotiations and the property owner shall be given the opportunity to accompany the appraiser during his inspection of the property. (Government Code Sec. 7267.1b and 7267.2)
2. The City shall make a prompt offer to the property owner for the full estimate of market value established by the City based upon the approved appraisal. The City shall also provide the property owner with a written statement of, and summary of the basis for, the amount established as just compensation. The summary shall contain the following elements:
 - a. The owners name and address.
 - b. Zoning and present use of the property.
 - c. Highest and best use of the property.
 - d. Consideration to be paid by the City.
 - e. Total property area and amount to be acquired.
 - f. Market value of the property to be acquired and a statement as to how the value was established, i.e. market data approach, income approach, or cost approach.
 - g. Amount of damages or a statement indicating that there are no compensable damages. (Government Code Sec. 7267.2)
3. The City shall make every reasonable effort to acquire by negotiation, the real property interests required so as to reduce the need for litigation. The City shall strive at all times to assure consistent treatment of property owners involved in public improvements projects and to promote public confidence in the City's acquisition practices. (Government Code Sec. 7267 and 7267 1a)
4. The City shall schedule the construction or development of a public improvement, insofar as it is practicable, so that no person lawfully occupying real property shall be required to move from a dwelling or business, assuming a replacement dwelling is available, without at least 90 days written notice from the City. (Government Code Sec.7267.3)
5. The City shall institute formal condemnation proceedings of any real property interests are to be acquired by the exercise of the power of eminent domain. The threat of condemnation, however, shall not be used to coerce a property owner into agreement but used only when the original offer has been rejected, negotiations have reached an impasse, and where time

restraints imposed by funding sources cannot be met by the negotiation process, or to insure compliance with a construction schedule. (Government Code Sec. 7267.5 and 7267.6)

6. The City shall offer to acquire the entire property if the owner so desires where the acquisition of a portion of the property would leave the remaining portion in such shape or condition as to constitute an uneconomic remnant. (Government Code Sec. 7267.7)
7. The City shall provide relocation advisory assistance to any person, business, or farm operation displaced because of the acquisition of the real property upon which they are located. (Government Code Sec. 7261)
8. The City shall administer the Relocation Assistance Program fairly to insure that all persons eligible for assistance receive all benefits to which they are entitled. (Government Code Sec. 7261.5, 7262, 7263, 7264, 7264.5, 7265, 7265.3, 7265.4 and 7267.8)

HISTORY:

Adopted by Resolution R-212437 01/16/1975